

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No. 479 of 1997
in
SPECIAL CIVIL APPLICATION No. 7377 of 1989
with
LETTERS PATENT APPEAL No. 480 of 1997
in
SPECIAL CIVIL APPLICATION No. 7378 of 1989
with
LETTERS PATENT APPEAL No. 481 of 1997
in
SPECIAL CIVIL APPLICATION No. 7379 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE C.K.THAKKER
and
MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

KERALA STATE COIR CORPORATION LTD

Versus

LAXMAN A HARWARIYA

Appearance:

MR PV HATHI for Petitioner

M/S TRIVEDI & GUPTA for Respondent No. 1

CORAM : MR.JUSTICE C.K.THAKKER and

MISS JUSTICE R.M.DOSHIT

Date of decision: 06/10/97

ORAL JUDGEMENT {Per : Thakkar, J.}

All the three Letters Patent Appeals arise out of a Common Judgment and Order passed in Special Civil Application Nos. 7377 of 1989; 7378 of 1989 and 7379 of 1989, decided on March 10, 1997. By the said judgment, all the petitions were allowed and in para-9, the following directions have been issued by the learned Single Judge :-

"9. In the result, these Special Civil Applications succeed and the same are allowed. The respondent-Corporation is directed to give the pay to the petitioners with all other allowances admissible as per rules in the pay scale of 110-195 with effect from the date of filing of these Special Civil Applications i.e., 19th October, 1989 taking round figure of 1st November, 1989. However, if in the meanwhile the pay-scale of 110-195 has undergone any revision or revisions, then the petitioners shall be entitled for the revised pay scale with all other consequential benefits. The respondent-Corporation is further directed to calculate the arrears to be paid to the petitioners for all these years within a period of three months from the date of receipt of certified copy of this order. The respondent Corporation shall pay the amount of arrears on fixation of the pay of the petitioners in the pay scale aforesaid within a period of three months next thereafter. It is a case where the low paid employees have unnecessarily been dragged into litigation, which heavily cots. These poor persons have to be compensated for the expenses which they incurred in litigation. The respondent-Corporation is directed to pay to each of the petitioners Rs. 2000/= by way of costs of these Special Civil Applications. Rule is made absolute in all these Special Civil Applications."

We have heard Mr. P.V Hathi, learned counsel for the appellant-Corporation. Looking to the order passed by the learned Single Judge, it clearly appears that what weighed with the learned Single Judge was that the

respondents were appointed to the post of Peon-cum-Stitcher and that all of them were confirmed. A copy of order was also produced alongwith the petitions. It was contended by the learned counsel for the appellant that the petitioners were not entitled to minimum pay-scales. He submitted that one can understand if a direction is issued to the appellant Corporation to pay minimum wages in accordance with law. We have, however, failed to see any substance in the contentions of learned counsel for the appellant. Looking to the confirmation order issued in 1986, on which reliance was placed by the petitioners and on the basis of which the learned Single Judge allowed the petitions and granted relief, it is clear that the employees were confirmed. No doubt it was contended by Mr. Hathi that the expression "Confirmation" was used not as understood in ordinary service jurisprudence but their services would not be terminated. In our opinion, the learned Single Judge has not committed any error in relying upon the factum of confirmation of employees and in view of non-availability and/or paucity of material, when minimum pay scales were granted, the said action cannot be said to be illegal or otherwise contrary to law.

Reliance was also placed by the learned counsel for appellant on the Order passed by the Delhi High Court in CW 2211 & CM 3753/91. We do not know the facts of that case but reading the first sentence of the order, it prima facie appears to us that the employee who approached the Court must be temporary and/or adhoc and/or a daily wager. The first sentence starts, "Learned counsel for the respondent states that there is no proposal to dismiss or terminate the services of the petitioner at the moment." In the instant case, the factual foundation is totally different. In these circumstances, we do not find any infirmity in the order passed by the learned Single Judge.

Mr. Hathi also contended that in any case no mandatory order could have been passed by the learned Single Judge. In our opinion, when the learned Single Judge found that the employees were appointed in 1980, 1981 and 1983 respectively and that in 1986 they were confirmed and that according to the learned Single Judge, they were entitled to minimum Pay Scales, it cannot be said that such a direction could not have been issued. In fact, when the petitions were allowed, in our opinion, the consequential direction which could have been issued by the learned Single Judge was to grant the benefit, which has been done.

We also do not find any substance in the argument of learned counsel for the appellant that the law laid down by the Hon'ble Supreme Court in State of Haryana & Ors., v. Jasmer Singh & Ors., JT 1996 10 SC 876 would help the appellant in as much as the said case deal with cases of daily rated employees. In the instant cases, all the petitioners were confirmed employees. For the foregoing reasons, all the Letters Patents deserve to be dismissed and are accordingly dismissed. Notices discharged. No order as to costs.
